

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ronald J. Weeks

Application No.: 10/528,610

Confirmation No.: 4031

Filed: March 21, 2005

Art Unit: 1794

For: POLYMER COMPOSITIONS FOR EXTRUSION
COATING

Examiner: Kevin R. Kruer

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.41, this Reply Brief is filed within two months of the Examiner's Answer which was mailed on December 19, 2008.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37(c) and M.P.E.P. § 1208:

- (I) Identification page setting forth the appellant's name(s), the application number, the filing date of the application, the title of the invention, the name of the examiner, the art unit of the examiner and the title of the paper (i.e., Reply Brief);
- (II) Status of claims page(s);
- (III) Grounds of rejection to be reviewed on appeal page(s); and
- (IV) Argument page(s).

I. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are twenty-three+ claims pending in application.

B. Current Status of Claims

1. Claims canceled: 2, 10, 12, 21 and 23
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 1, 3-9, 11, 13-20, 22 and 24-28
4. Claims allowed: none
5. Claims rejected: 1, 3-9, 11, 13-20, 22 and 24-28

C. Claims On Appeal

The claims on appeal are claims 1, 3-9, 11, 13-20, 22 and 24-28

II. GROUNDS OF OBJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 3-9, 11, 13-20, 22, and 24-28 are patentable under 35 USC § 103 over Chum et al (US 5,667,383) in view of Bamburger et al (US 6,384,158).

III. ARGUMENTS RESPONSIVE TO THE EXAMINER'S ANSWER

Applicant has read the Examiner's Answer and wishes to respond to a few points. The Examiner asserts in the paragraph bridging pages 5 and 6, that Bamburger was not trying to solve a problem resulting from LDPE/linear polyethylene blends. Applicant respectfully points out that the language quoted by the Examiner stating that it known to add LDPE to linear polyethylenes in order to improve melt strength shear sensitivity and to reduce the tendency to melt fracture (that is, column 1, lines 50+) is in the section of the patent entitled, "Background of the Invention". This section concludes with the statement, "Therefore a need exists for catalyst which offers the processability of blends, but the properties of the linear blend components." (column 1, lines 65-67). The clear implication is that with polymers made from the new catalyst, the need for adding LDPE would be eliminated. Tellingly, none of the Examples in Bamburger blend the LLDPE produced with the inventive catalysts with LDPE.

The Examiner has further stated in the first full paragraph on page 6, that “Bamburger teaches the amount of LDPE is a result effective variable that controls melt strength, shear sensitivity and melt fracture of linear polyethylene compositions.” The Examiner does not provide a cite to the document, and Applicant is unsure what the Examiner means by the term “result effective variable”. There is no indication in Bamburger, however, that the amount of LDPE can be varied such that the benefits (that, is melt strength, shear sensitivity and melt fracture properties) can be obtained without the corresponding detriment to mechanical properties also specifically mentioned by Bamburger at column 1, lines 54-55.

The Examiner has also stated in the first paragraph of page 7 of the Examiner’s Answer that the skilled artisan would have desired higher melt strength [at the expense of mechanical properties] in the present situation, stating only that linear polyethylenes are known to be deficient with regards to melt strength, shear sensitivity and melt fracture. Applicant respectfully points out that while it may be true that *some* linear polyethylenes are known to be deficient in this regard, the specific materials taught by Chum are not so regarded. In fact Chum itself states that, “Film and film structures particularly benefit from the novel compositions [that is, without LDPE] described herein” (Chum, Column 9, lines 64-65). Given that teaching, it is not clear why a person of ordinary skill in the art would nevertheless add LDPE to increase properties which apparently aren’t lacking, to the detriment of the mechanical properties.

The Board is kindly directed to the main Appeal Brief for further arguments against the rejections put forth by the Examiner.

Dated: February 17, 2009

Respectfully submitted,

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